

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE SERVICES

Before the Commissioner of the Office of Financial and Insurance Services

In the matter of:

Hantz Financial Services, Inc. d/b/a Hantz Financial Enforcement Case No. 06-4290
24901 Northwestern Highway, Ste. 710
Southfield, MI 48075

John Machcinski, President

Applicant

_____/

Issued and entered,
on 28 June 2007
by Frances K. Wallace
Chief Deputy Commissioner

CONSENT ORDER

I.
BACKGROUND

Hantz Financial Services, Inc. d/b/a Hantz Financial ("Respondent") is a Michigan domiciled corporation, organized under the laws of the state of Michigan, that has made application for licensure as a mortgage broker under the Mortgage Brokers, Lenders, and Servicers Licensing Act ("MBLSLA"), 1987 P.A. 173, as amended, MCL 445.1651 *et seq.*, and secondary mortgage broker registration under the Secondary Mortgage Loan Act ("SMLA"), 1981 P.A. 125, as amended, MCL 493.51 *et seq.* Respondent is not presently licensed or registered by the Office of Financial and Insurance Services ("OFIS") pursuant to the MBLSLA

or any other consumer finance statute regulated by OFIS. In reviewing Respondent's application, OFIS staff determined that Respondent was already conducting mortgage-related activities, which require licensure as a mortgage broker under the MBLSLA. Respondent and OFIS staff have conferred and have agreed to resolve this matter according to the terms set forth below.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Commissioner of OFIS has jurisdiction and authority to adopt and issue this Consent Order, pursuant to the Michigan Administrative Procedures Act ("MAPA"), MCL 24.201 *et seq.*, and the MBLSLA.

2. At all times pertinent to the matter herein, Respondent was neither licensed by OFIS to act as a mortgage broker nor does it meet any of the exemptions prescribed by the MBLSLA to act as a mortgage broker without a license.

3. Staff learned from the National Association of Securities Dealers ("NASD") that Respondent has for a number of years acted as a mortgage broker.

4. Staff's investigation revealed that from January 1, 2002, to June 30, 2004, Respondent acted as a mortgage broker without the requisite license, registration, or meeting any of the exemptions enumerated in the MBLSLA. Based on the evidence staff received from the NASD and the letter of Acceptance, Waiver, and Consent ("AWC") Respondent submitted to the NASD to settle the violations alleged in the AWC, staff has determined that Respondent violated the MBLSLA by engaging in the following conduct:

Hantz Group ("HG"), Respondent's parent company, acquired Tranex Financial, Inc. ("Tranex") in approximately 1999. Tranex is licensed as a first and registered as a secondary mortgage broker and lender in the state of Michigan. Respondent's Financial

Advisors ("FAs") performed the duties of a mortgage broker including, but not limited to, educating the homeowners about mortgage product options, taking mortgage applications, disseminating the various mandatory HUD disclosure forms, and collecting the necessary documentation required at loan closings. Respondent's FAs recommended mortgage loans to their clients, performed the duties described above for each mortgage loan application completed by a client, and referred the loans to Tranex. Respondent's FAs received compensation from Respondent that equaled about 25% of the net yield spread that Tranex earned for closing the mortgage loans.

5. Based on the foregoing, Respondent conducted mortgage business without the requisite license or registration certificate required under Section 2 of the MBLSLA. Section 2 of the MBLSA prohibits a person from acting as a mortgage broker unless the person is licensed or registered in accordance with the Act or meets any of the exceptions enumerated therein. The facts above demonstrate that Respondent and its FAs acted as mortgage brokers when they referred clients to Tranex, educated homeowners about mortgage product options, took mortgage applications, interviewed potential mortgage applicants, disseminated various mandatory HUD disclosure forms, collected documents required to close loans, and received compensation from Respondent based upon a percentage of the Tranex net yield spread. Consequently, Respondent is in violation of Section 2 of the MBLSLA.

6. On September 22, 2006, the Chief Deputy Commissioner of OFIS issued a Notice of Denial of Mortgage Broker License and Registration Applications and Notice of Opportunity for Hearing (Notice of Denial) to Respondent.

7. On September 22, 2006, the Chief Deputy Commissioner of OFIS issued an Order to Cease and Desist and Notice of Opportunity for Hearing (Cease and Desist Order) to

Respondent.

8. On or about October 10, 2006, Respondent requested a hearing to contest the aforementioned notices.

9. On or about November 28, 2006, the Chief Deputy Commissioner of OFIS issued a Notice Respecting Hearing, which informed Respondent that a hearing was scheduled to take place on February 27, 2007, to address the issues contained in the Notice of Denial and Cease and Desist Order.

10. On or about December 18, 2006, OFIS received a request for adjournment of the Administrative Hearing set for February 27, 2007. The request for adjournment was granted.

11. Subsequently, Respondent and OFIS staff discussed the concerns raised in the Notice of Denial and Cease and Desist Order.

12. During the discussions between OFIS staff and Respondent, OFIS staff learned that Respondent had taken action to resolve issues raised by the NASD and OFIS. Respondent has represented to OFIS staff that it has complied with the Cease and Desist Order and it is not currently acting as a mortgage broker without a license as prescribed by the MBLSLA. Additionally, Respondent has represented to OFIS staff that the issues raised by the NASD in the AWC dated August 11, 2005, have all been resolved to the satisfaction of the NASD.

13. In addition, Respondent has informed staff that it has made significant changes to its management structure, which resulted in an independent five-person Board of Directors. According to Respondent, Tranex has also implemented management changes at every level. The managers of Tranex at the time of above-mentioned violations are no longer employed by Tranex, and have been replaced with individuals that are competent and knowledgeable about the applicable mortgage laws.

14. Based on the foregoing representations by Respondent and entry of this Order, OFIS staff will make the appropriate recommendation to the Chief Deputy Commissioner concerning Respondent's application for licensure under the MBLSLA, and registration under the SMLA.

III. ORDER

It is ORDERED that:

1. Respondent shall cease and desist violating Section 2 of the MBLSLA.
2. Respondent shall pay to OFIS an applicable civil penalty of \$350,000.00. This amount shall be paid within 30 days of the date of entry of this Order.
3. Respondent shall establish and maintain a program to monitor and ensure compliance with all state and federal consumer laws and regulations relating to all mortgage activity conducted by Respondent.
4. Respondent shall create and maintain a loan log of each application taken by Respondent. At a minimum, the loan log shall contain the following information: the borrower name; subject property address; loan application date; loan amount; loan status, such as closed, denied, withdrawn, or rescinded; lien position, such as first, second, or subsequent; loan officer name; originating branch office, if applicable; closing date; whether the loan is purchase money or refinance; whether the subject property is owner occupied, investment property, or second home; who the loan was sold or assigned to, if applicable; loan number, or other unique identifier; and the originating broker, if applicable.
5. Within 90 days of the entry of this Order, Respondent shall develop and maintain a comprehensive written employee Policy and Procedures Manual clearly delineating the

mortgage loan process and all statutes, ordinances, rules, and regulations that govern the activity of its offices and all employees.

6. Within 90 days of the entry of this Order, Respondent shall develop, implement, and maintain a comprehensive written Quality Control and Compliance Program. The Quality Control and Compliance Program shall include internal and external audits and, at a minimum, shall:

- a. Appoint a compliance officer with knowledge, authority, and accountability who will be responsible for administering Respondent's compliance program.
- b. Define the duties and responsibilities of the compliance officer.
- c. Allocate resources necessary to effectively implement and administer Respondent's compliance program.
- d. Require the compliance officer to make recurring written reports to Respondent's officers and directors.
- e. Take prospective corrective action on each violation and recommendation listed in the report.
- f. Revise the written compliance policy and require annual revisions and approval of changes to the compliance policy.
- g. Develop compliance related policies for each regulation applicable to Respondent.
- h. Require the review and annual approval of compliance related policies.
- I. Implement an ongoing training program to ensure that all managers, loan officers, loan processors, and loan administrative staff receive training in all aspects of the brokering, originating, and closing of mortgage loans. The training program will include education on all applicable state and federal laws and regulations, including but not limited to, the Mortgage Brokers, Lenders, and Servicers Licensing Act; Secondary Mortgage Loan Act; Consumer Mortgage Protection Act; Mortgage Lending Practices Act; Real Estate Settlement Procedures Act; National Housing Act; Truth in Lending Act;

Equal Credit Opportunity Act; Fair Credit Reporting Act; Home Mortgage Disclosure Act; and applicable usury laws.

- J. Require the compliance officer to prepare a schedule of requirements for each applicable consumer regulation (such as type and timing of disclosures), so that employees will be informed of the requirements that relate to their duties.

7. Within 90 days of the entry of this Order, Respondent shall provide written notification to the Office of Financial and Insurance Services of the compliance officer's name and business address. Respondent shall notify the Office of Financial and Insurance Services of any change in designation of the compliance officer within 30 days of such re-designation.

8. Within 90 days of the entry of this Order, Respondent shall develop, implement, and maintain a written Compliance Audit Program, which will be part of the Quality Control and Compliance Program referred to in paragraph 6. At a minimum, the Compliance Audit Program shall include internal and external audits, define the scope of the audits, identify the number or percentage of transactions sampled by category and product type, identify deficiencies or modifications, provide descriptions of or suggestions for corrective actions and time frames for corrections, and establish follow-up procedures to verify that corrective actions were implemented and effective.

9. Respondent's Policies and Procedures will be designed to ensure appropriate disclosures are made to its existing and prospective clients, including any and all disclosures required by applicable state and federal laws. The disclosures required herein shall also include those disclosures required by applicable provisions of the Securities Act of 1933, Michigan Uniform Securities Act, and NASD Conduct Rules.

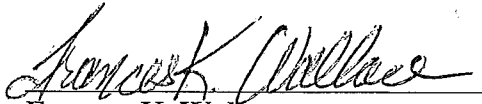
The Commissioner retains jurisdiction over the matters contained herein and has the authority to issue such further order(s) as she shall deem just, necessary and appropriate in accordance with the provisions of the MBLSLA.

IV.

CONSEQUENCES OF VIOLATING CONSENT ORDER

If Respondent fails to comply with any term of this Consent Order, OFIS may institute administrative or judicial proceedings against Respondent to enforce this Consent Order or sanction Respondent for violating an Order of the Commissioner, and may take any other action authorized under the MBLSLA or any other applicable law, including the issuance of fines or penalties as provided by the MBLSLA. For the purpose of determining those sanctions, the Findings of Fact and violations of the MBLSLA set forth in this Consent Order shall be deemed admitted and may be introduced into evidence against Respondent.

IT IS SO ORDERED.



Frances K. Wallace
Chief Deputy Commissioner

**V.
STIPULATION**

Respondent and the OFIS hereby stipulate and agree to the following:

1. Effective upon entry of this Order, Respondent agrees to withdraw its Petitions for a Contested Case Administrative Hearing in this matter.


2. Effective upon entry of this Order, OFIS agrees to withdraw the Notice of Denial and the Cease and Desist Order issued to Respondent in this matter.

3. Respondent, without admitting or denying the Commissioner's Findings of Fact and Conclusions of Law, expressly consents to the Commissioner's jurisdiction in this proceeding and to the terms of the Consent Order.

4. Respondent understands and agrees that this Stipulation will be presented to the Chief Deputy Commissioner for approval. The Chief Deputy Commissioner may in her sole discretion, decide to accept or reject the Stipulation and Consent Order. If the Chief Deputy Commissioner accepts the Stipulation and Consent Order, Respondent waives the right to a hearing in this matter and consents to the entry of the Consent Order. Further, in consideration of the terms and conditions set forth herein, Respondent voluntarily waives and gives up any and all right that it may now or hereafter have to administrative or judicial review concerning entry of the Commissioner's Order in this matter. If the Chief Deputy Commissioner does not accept the Stipulation and Consent Order, Respondent waives any objection to the Commissioner holding a formal administrative hearing and making her decision after such hearing. The Commissioner has jurisdiction and authority under the provisions of the MAPA and the MBLSLA to accept this Stipulation and to issue a Consent Order resolving these proceedings. Respondent has had an opportunity to review this Stipulation and the accompanying Consent

Order and have it reviewed by legal counsel. Respondent consents to the entry of the Consent Order.

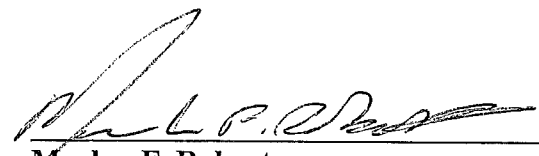
Hantz Financial Services, Inc. d/b/a Hantz Financial


By: JOHN F. MACHEWSKI
Its: PRESIDENT

6/27/07
Dated

OFIS staff approves this Stipulation and recommends that the Chief Deputy Commissioner issue the Consent Order above.

Dated: 6/27/2007


MARLON F. ROBERTS
Staff Attorney